Sal Cognetti, Jr., Esquire PA# 17269 Vincent S. Cimini, Esquire PA#60463 700 Scranton Electric Building 507 Linden Street Scranton, PA 18503 (570) 346-0745

IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JOHN DOE, JOHN DOE, SR. and : JANE DOE, :

Plaintiffs,

:

vs.

:

FATHER ERIC ENSEY, FATHER CARLOS

URRUTIGOITY, THE DIOCESE OF

SCRANTON, JAMES C. TIMLIN, THE : No. 3:02-CV-444

SOCIETY OF ST. JOHN, THE PRIESTLY

FRATERNITY OF ST. PETER :

and ST. GREGORY'S ACADEMY, : (JUDGE JONES)

Defendants. :

ANSWER AND AFFIRMATIVE DEFENSES OF DEFENDANTS, FATHER ERIC ENSEY, FATHER CARLOS URRUTIGOITY, AND THE SOCIETY OF ST. JOHN, TO PLAINTIFFS' COMPLAINT

AND NOW COME the Defendants, Father Eric Ensey, Father Carlos Urrutigoity, and the Society of St. John, by and through their attorneys, and file this Answer and Affirmative Defenses to Plaintiffs' Complaint, and in support thereof aver as follows:

- 1. The allegations of paragraphs 30, 31, and 32 of the Complaint are admitted.
- 2. The allegations of paragraph 4 are admitted in part and denied in part. It is admitted that Father Eric Ensey is a member of the Society of St. John. It is also admitted that Father Eric Ensey did at one time formerly reside for a period of time at St.

Gregory's Academy in Elmhurst, Lackawanna County, and at property owned by the Society in Shohola, Pike County, Pennsylvania. As to the balance of the averments of this paragraph of the Complaint, the same are denied and strict proof thereof is demanded at time of trial.

- 3. The allegations of paragraphs 1, 2, 3, 5, 8, 11, 13, 14 15, 16, 17, 18, 19, 20, 21, 22, 25, 26, 29, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 51, 52, 53, 54, 55, 63, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, and 84 are denied as stated and strict proof to the contrary is demanded at time of trial.
- 4. The allegations of paragraphs 6, 7, 9, 10, 12, 23, 24, 27, 28, 47, 48, 49, 50, 56, 57, 58, 59, 60, 61, 62, 64, 65, 66, 67, 68, 69, 70, 71, 72, and 73 are not directed to Defendants, Father Eric Ensey, Father Carlos Urrutigoity, and the Society of St. John, and are, therefore, denied and strict proof to the contrary is demanded at time of trial.
- 5. The remaining allegations of Plaintiffs' Complaint are denied as stated and strict proof to the contrary is demanded at time of trial.

First Affirmative Defense

Plaintiffs' Complaint fails to state a claim upon which relief can be granted.

Second Affirmative Defense

The Court lacks jurisdiction over the subject matter of this claim.

Third Affirmative Defense

It is averred that the statute of limitations, and/or the statute of repose, applicable to this case, is pleaded as an affirmative defense and as a bar to this action.

WHEREFORE, Defendants, Father Eric Ensey, Father Carlos Urrutigoity, and the Society of St. John, demand that Plaintiffs' Complaint be dismissed and judgment entered in their favor.

Respectfully submitted,

FOLEY, COGNETTI, COMERFORD, CIMINI & CUMMINS

BY: s/Sal Cognetti, Jr., Esquire
SAL COGNETTI, JR., ESQUIRE

BY: s/ Vincent S. Cimini, Esquire
VINCENT S. CIMINI, ESQUIRE

Sal Cognetti, Jr., Esquire PA# 17269 Vincent S. Cimini, Esquire PA#60463 700 Scranton Electric Building 507 Linden Street Scranton, PA 18503 (570) 346-0745

IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JOHN DOE, JOHN DOE, SR. and : JANE DOE, :

OOE, : Plaintiffs, :

VS.

ERIC ENSEY, CARLOS URRUTIGOITY, :

THE DIOCESE OF SCRANTON, JAMES C. : No. 3:02-CV-444

TIMLIN, THE SOCIETY OF ST. JOHN, THE : PRIESTLY FRATERNITY OF ST. PETER :

and ST. GREGORY'S ACADEMY, : (JUDGE JONES)

Defendants.

CERTIFICATE OF SERVICE

I, VINCENT S. CIMINI, ESQUIRE, hereby certify that a true and correct copy of the Answer to Plaintiffs' Motion for Order of Default has been served by via electronic notice upon the following counsel of record:

James Bendell, Esquire
P.O. Box 587
Oliver, Price & Rhoades
2535 Ivy Street
Port Townsend, WA 98368
Joseph O'Brien, Esquire
1212 S. Abington Road
P.O. Box 240

Clarks Summit, Pa 18411

Harry T. Coleman, Esquire 148 Adams Avenue Scranton, Pa 18503

The following counsel have been served via First Class U.S. Mail:

James O'Brien, Esquire 538 Spruce Street, Suite 504 Scranton, PA 18503 Joseph F. Leeson, Jr., Esquire Leeson & Leeson 70 East Broad Street P.O. Box 1426 Bethlehem, PA 18016

Joseph F. Gaughan, Esquire 300 Mulberry Street, Suite 203 Scranton, Pa 18503

Respectfully submitted,

FOLEY, COGNETTI, COMERFORD, CIMINI & CUMMINS

BY: s/ Vincent S. Cimini, Esquire
VINCENT S. CIMINI, ESQUIRE

Dated: April 6, 2004